

OPINION
69-137

May 28, 1969 (OPINION)

Mr. Lester J. Schirado

State's Attorney

Morton County

RE: Counties - Retirement System - Definition of Employer

This is in response to your letter in which you refer to Senate Bill No. 46 of the 1969 Legislative Assembly, which amends several provisions of Chapter 54-52, and specifically Section 54-52-06.

You ask if a county employee is employed by more than one county but only one of the counties elects to participate in the State Retirement System, must the participating county withhold the four percent contribution on the total salary of such employee or only on its proportionate share.

The term "employer" is found in Section 54-52-06 actually means a political subdivision which is a participating member in the State Retirement System.

Therefore, it would be our opinion that where an employee is employed by two counties but only one county is a participating member of the State Retirement System, all wages paid by the participating county would be subject to the contributions as provided for in the State Retirement System. The salary received by the employee for the non-participating county would not be included and would not be taken into account in determining the contributions by the county or by the employee.

HELGI JOHANNESON

Attorney General